

Order

Michigan Supreme Court
Lansing, Michigan

March 30, 2005

Clifford W. Taylor
Chief Justice

ADM File No. 2004-32

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Justices

Proposed Amendment of
Rules 9.223 and 9.224 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering amendments of Rules 9.223 and 9.224 of the Michigan Court Rules. Before determining whether the proposals should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted on the Court's website at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 9.223 ~~Certification to Supreme Court~~ Filing and Service of Documents by Commission

(A) ~~Filing and Service of Documents by Commission.~~ Within 21 days after entering an order recommending action with regard to a respondent, the commission must take the action required by subrules (A) and (B).

(1)(A) Filings in Supreme Court. The commission must file in the Supreme Court:

(a)(1) the original record arranged in chronological order and indexed and certified;

(b)(2) 24 copies of the order; and

(c) ~~24 copies of an appendix;~~ and

(d)(3) a proof of service on the respondent~~;~~

(2)(B) Service on Respondent. The commission must serve the respondent with:

(a1) notice of the filing under MCR 9.223(A)(1);

(b2) 2 copies of the order ~~and appendix;~~

- (e3) 2 copies of the index to the original record; and
 - (d4) a copy of a portion of the original record not submitted by or previously furnished to the respondent.
- (B) ~~Contents of Appendix. The appendix must include, in chronological order:~~
- (1) ~~an index;~~
 - (2) ~~all pleadings, including those filed with a master;~~
 - (3) ~~all orders, including those issued by a master;~~
 - (4) ~~all reports, findings of fact, and conclusions of law made by the commission or a master; and~~
 - (5) ~~other material necessary to fairly judge the issues.~~

Rule 9.224 Review by Supreme Court

- (A) Petition by Respondent. Within 28 days after being served, a respondent may file in the Supreme Court 24 copies of

- (1) [Unchanged.]
- (2) an appendix presenting portions of the record ~~not included in the commission's appendix~~ that the respondent believes necessary to fairly judge the issues.

The respondent must serve the commission with 3 copies of the petition and 2 copies of the appendix and file proof of that service.

- (B) Brief of Commission. Within 21 days after respondent's petition is served, the commission must file

- (1) 24 copies of a brief supporting its finding, and
- (2) proof that the respondent was served with 2 copies of the brief.

The commission may file 24 copies of an appendix containing portions of the record not included in the respondent's appendix that the commission believes necessary to fairly judge the issues.

- (C)-(F) [Unchanged.]

Staff Comment: The proposed amendment of MCR 9.223 would eliminate the requirement that the Judicial Tenure Commission file an appendix with its recommendation for discipline against a judge.

The proposed amendment of MCR 9.224(A) would require the respondent judge to file an appendix if the respondent files a petition to reject or modify the commission's decision. The proposed amendment of 9.224(B) would allow the Judicial Tenure Commission to file a supplemental appendix with its brief in response to a respondent judge's petition.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by July 1, 2005, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2004-32. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 30

, 2005

Corbin R. Davis

Clerk